

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN COTTAM,

Plaintiff,

-v-

6D GLOBAL TECHNOLOGIES, INC., *et al.*,

Defendants.

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ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/11/17

No. 16-cv-4584 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

On June 16, 2016, Plaintiff commenced this action alleging breach of contract, securities fraud under Section 10(b) of the Securities Exchange Act and Rule 10b-5, breach of fiduciary duty, and aiding and abetting a breach of fiduciary duty.¹ (Doc. No. 1.) Now before the Court is Defendants' motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. (Doc. No. 43.) Because the Court finds that Plaintiff has sufficiently pleaded his claims for breach of contract and, in the alternative, for securities fraud, IT IS HEREBY ORDERED THAT Defendants' motion to dismiss the complaint is DENIED. Moreover, in light of the facts that the Court finds the contract at issue in this case to be unambiguous and that Plaintiff is likely to succeed on his breach of contract claim, which would render the securities fraud claim moot, IT IS HEREBY ORDERED that the parties shall appear for a conference on Monday, July 31, 2017 at 2:00 p.m. to discuss next steps in this action, including the setting of a briefing schedule for an anticipated motion for summary judgment by Plaintiff.

The Clerk of Court is respectfully directed to terminate the motion pending at docket number 43.

SO ORDERED.

Dated: July 11, 2017
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

¹ Plaintiff voluntarily dismissed Defendant William Uchimoto on August 11, 2016 and Defendants Global Emerging Capital Group, LLC and Alexander Kibrik on August 16, 2017 in order to pursue arbitration against those parties. (Doc. Nos. 31, 32.) Plaintiff's claims against the remaining Defendants are for breach of contract and securities fraud.